effective whole ad? Why or why not? How might it be improved?

At the end of the session, the participants will fill out a short outtake questionnaire that will contain some questions about smoking status, number of cigarettes smoked, brands smoked, and other relevant information.

Dated: November 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29299 Filed 11–30–95; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Modifications to Role of National Labor Relations Board's Administrative Law Judges Including: Assignment of Administrative Law Judges as Settlement Judges; Discretion of Administrative Law Judges to Dispense With Briefs, to Hear Oral Argument in Lieu of Briefs, and to Issue Bench Decisions

AGENCY: National Labor Relations Board.

ACTION: Proposed permanent modification of rules upon expiration of one-year experiment.

SUMMARY: The National Labor Relations Board (NLRB) issues a document proposing to make permanent, following expiration of the one-year experimental period on January 31, 1996, the experimental modification to its rules authorizing the use of settlement judges and providing administrative law judges (ALJs) with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions.

DATES: Comments must be received on or before December 29, 1995.

ADDRESSES: Comments should be sent to: Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, D.C. 20570. Telephone: (202) 273–1940.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Acting Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: On September 8, 1994, the Board issued a Notice of Proposed Rulemaking (NPR) which proposed certain modifications to the Board's rules to permit the assignment of ALJs to serve as settlement judges, and to provide ALJs with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions (59 FR 46375). The NPR provided for a comment period ending October 7, 1994.

Thereafter, on December 22, 1994, following consideration of the comments received to the NPR, the Board [1] issued a notice implementing, on a one-year experimental basis, the proposed modifications (59 FR 65942). The notice provided that the modifications would become effective on February 1, 1995, and would expire at the end of the one-year experimental period on January 31, 1996, absent renewal by the Board.

Recently, on November 6 and 8, 1995, the Board met with the Management and Union-side Panels of the NLRB Advisory Committee on Agency Procedure to discuss, among other matters, the experience to date with the experimental modifications and whether the modifications should be extended or made permanent following expiration of the one-year experimental period.[2] The following is a summary of the information that the Board provided to the members of the Advisory Committee Panels on this question.

Settlement Judges

Since February 1, 1995, settlement judges have been assigned in 55 cases. There have been settlements in 35 of the cases. Eighteen cases did not settle and went to trial. Settlement is still possible in some of the remaining cases. Some of the cases which settled did so after a trial judge was assigned and occurred either after conference calls conducted by the trial judge or at the hearing site. Twenty seven, or just about half of the cases in which settlement judges were assigned, were Region 4 (Philadelphia) cases in which the region played an active role in setting up settlement conferences. In about half a dozen other cases appointment of a settlement judge was requested by the General Counsel or a party. In the remaining 22 cases, settlement judges were assigned at the initiative of the Division of Judges. The Division of Judges has suggested appointment of settlement judges in other cases, but not all the parties have agreed. At the end of August 1995, there were a total of 577 settlements by ALJs compared to 544 at the end of August 1994. The difference is almost the same as the number of cases in which settlement judges were assigned and settlements were reached.

Bench Decisions

Ten bench decision have issued since February 1, 1995 (out of approximately 400 total ALJ decisions). Several of the bench decisions turned on simple credibility determinations. None of the cases involved complex legal issues. The average transcript length was 144 pages; the median length was slightly higher. All of the cases took less than one day. In six of the 10 cases, no exceptions were filed to the ALJ's bench decision, and the Board therefore adopted the ALJ's decision in the absence of exceptions. Of the four other bench-decision cases, the Board short-form adopted the ALJ's decision in three of the cases,[3] and the other case is still pending before the Board on exceptions.

The response of both the Management and the Union-side Panel of the Advisory Committee generally favored a continuation of the modifications, with the exception of the modification authorizing bench decisions, which received a mixed response from the Management-side Panel. The response of the Management-side Panel of the Advisory Committee generally favored a continuation of the modification authorizing the use of settlement judges. Several members of the Panel stated that they favored extending the settlement judge procedure, provided that the use of settlement judges continued to be consensual as currently provided. One member, however, stated the view that the emphasis with respect to settlement should be on the trial judges themselves and the Regional Office staff rather than on settlement judges. With respect to bench decisions, one member of the Management-side Panel stated the view that this procedure should also be extended and used in more cases. However, two other members expressed concern about the lack of discovery and the absence of an opportunity to file a brief.

The Union-side Panel also generally favored continuation of the settlement judge procedure. The Panel emphasized, however, that the settlement judge should not have the authority to postpone the trial date. Further, the Panel indicated that it was not necessarily opposed to eliminating the requirement that all parties agree to the use of a settlement judge or mandating that parties appear at an initial settlement conference. Finally, the

[1] Chairman Gould and Members Devaney and Browning; Members Stephens and Cohen dissenting in part.

[2] A notice of these meetings was issued on October 19, 1995, advising the public of the agenda and of the right to attend and file written comments on the matters discussed within 30 days thereafter (60 FR 54090). To date, no written public comments have been received.

[3] *Sylvan Industrial Piping, Inc.*, 317 NLRB 772 (1995); *The Riverboat Hotel*, 319 NLRB No. 30 (Sept. 29, 1995); and *Kinco, Ltd.*, 319 NLRB No. 56 (Oct. 23, 1995) (Member Cohen dissenting in part).

Panel indicated support for continuing the bench decision procedure and encouraging its greater use.

Having reviewed the experience to date with the modifications and the views of the Advisory Committee, the Board is proposing to extend the modifications in their current form by making them permanent following the expiration of the one-year experimental period on January 31, 1996. The modifications are set forth below without change. The Board is providing a period for public comment on this proposal.

As required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that these rules will not have a significant impact on small business entities.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, the NLRB proposes to permanently amend 29 CFR Part 102 as follows upon expiration of the one-year experimental period on January 31, 1996:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.35 is revised to read as follows:

§ 102.35 Duties and powers of administrative law judges; assignment and powers of settlement judges.

(a) It shall be the duty of the administrative law judge to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The administrative law judge shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

(1) To administer oaths and affirmations;

(2) To grant applications for subpoenas;

(3) To rule upon petitions to revoke subpoenas;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(7) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(8) To dispose of procedural requests, motions, or similar matters, including motions referred to the administrative law judge by the Regional Director and motions for summary judgment or to amend pleadings; also to dismiss complaints or portions thereof; to order hearings reopened; and upon motion order proceedings consolidated or severed prior to issuance of administrative law judge decisions;

(9) To approve a stipulation voluntarily entered into by all parties to the case which will dispense with a verbatim written transcript of record of the oral testimony adduced at the hearing, and which will also provide for the waiver by the respective parties of their right to file with the Board exceptions to the findings of fact (but not to conclusions of law or recommended orders) which the administrative law judge shall make in his decisions;

(10) To make and file decisions, including bench decisions delivered within 72 hours after conclusion of oral argument, in conformity with Public Law 89–554, 5 U.S.C. 557;

(11) To call, examine, and cross-examine witnesses and to introduce into the record documentary or other evidence;

(12) To request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(13) To take any other action necessary under the foregoing and authorized by the published Rules and Regulations of the Board.

(b) Upon the request of any party or the judge assigned to hear a case, or on his or her own motion, the chief administrative law judge in Washington, D.C., the deputy chief judge in San Francisco, the associate chief judge in Atlanta, or the associate chief judge in New York may assign a judge who shall be other than the trial judge to conduct settlement negotiations. In exercising his or her discretion, the chief, deputy chief, or associate chief judge making the assignment will consider, among other factors, whether there is reason to believe that resolution of the dispute is likely, the request for assignment of a settlement judge is made in good faith, and the assignment is otherwise feasible. *Provided*, however, that no such assignment shall be made absent the agreement of all parties to the use of this procedure.

(1) The settlement judge shall convene and preside over conferences and settlement negotiations between the parties, assess the practicalities of a potential settlement, and report to the chief, deputy, or associate the status of settlement negotiations, recommending continuation or termination of the settlement negotiations. Where feasible settlement conferences shall be held in person.

(2) The settlement judge may require that the attorney or other representative for each party be present at settlement conferences and that the parties or agents with full settlement authority also be present or available by telephone.

(3) Participation of the settlement judge shall terminate upon the order of the chief, deputy, or associates issued after consultation with the settlement judge. The conduct of settlement negotiations shall not unduly delay the hearing.

(4) All discussions between the parties and the settlement judge shall be confidential. The settlement judge shall not discuss any aspect of the case with the trial judge, and no evidence regarding statements, conduct, offers of settlement, and concessions of the parties made in proceedings before the settlement judge shall be admissible in any proceeding before the Board, except by stipulation of the parties. Documents disclosed in the settlement process may not be used in litigation unless voluntarily produced or obtained pursuant to subpoena.

(5) No decision of a chief, deputy, or associate concerning the assignment of a settlement judge or the termination of a settlement judge's assignment shall be appealable to the Board.

(6) Any settlement reached under the auspices of a settlement judge shall be subject to approval in accordance with the provisions of Section 101.9 of the Board's Statements of Procedure.

3. Section 102.42 is revised to read as follows:

§ 102.42 Filings of briefs and proposed findings with the administrative law judge and oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period at the

close of the hearing for oral argument, which may include presentation of proposed findings and conclusions, and shall be included in the stenographic report of the hearing. In the discretion of the administrative law judge, any party may, upon request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge, who may fix a reasonable time for such filing, but not in excess of 35 days from the close of the hearing. Requests for further extensions of time shall be made to the chief administrative law judge in Washington, D.C., to the deputy chief judge in San Francisco, California, to the associate chief judge in New York, New York, or to the associate chief judge in Atlanta, Georgia, as the case may be. Notice of the request for any extension shall be immediately served on all other parties, and proof of service shall be furnished. Three copies of the brief or proposed findings and conclusions shall be filed with the administrative law judge, and copies shall be served on the other parties, and a statement of such service shall be furnished. In any case in which the administrative law judge believes that written briefs or proposed findings of fact and conclusions may not be necessary, he or she shall notify the parties at the opening of the hearing or as soon thereafter as practicable that he or she may wish to hear oral argument in lieu of briefs.

4. In § 102.45, paragraph (a), is revised to read as follows:

§ 102.45 Administrative law judge's decision; contents; service; transfer of case to the Board; contents of record in case.

(a) After hearing for the purpose of taking evidence upon a complaint, the administrative law judge shall prepare a decision. Such decision shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record, and shall contain recommendations as to what disposition of the case should be made, which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the policies of the Act. The administrative law judge shall file the original of his decision with the Board and cause a copy thereof to be served on each of the parties. If the administrative law judge delivers a bench decision, promptly upon receiving the transcript the judge shall certify the accuracy of the pages of the transcript containing the decision; file with the Board a certified copy of those pages, together with any supplementary matter the judge may deem necessary to complete the decision; and cause a copy thereof to be served on each of the parties. Upon the filing of the decision, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, on all the parties. Service of the administrative law judge's decision and of the order transferring the case to the Board shall be complete upon mailing.

* * * * *

Dated, Washington, D.C., November 27, 1995.

By direction of the Board:

John J. Toner,

Acting Executive Secretary.

[FR Doc. 95–29297 Filed 11–30–95; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–5337–5]

National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not Covered by Subpart H

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period and notice of public hearings.

SUMMARY: The Office of Radiation and Indoor Air, Radiation Protection Division is reopening the comment period for the proposal to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors; and will also hold public hearings on this proposed rule to rescind 40 CFR part 61, subpart I.

We are reopening the comment period to allow the public the opportunity to view NRC's proposed constraint level rule. When EPA first published it's notice of proposed rulemaking on September 28, 1995 (60 FR 50161, No.188), it was with the expectation that NRC's proposal was forthcoming and at that point we placed a draft of the proposal provided to us in the public docket (A–92–50). Due to NRC's delay in publishing their proposed constraint level rule, EPA needs to provide additional time for the public to review the actual proposal from NRC.

DATES: The reopening of the comment period allows comments to be received by EPA on or before January 20, 1996. The hearings will be held on Tuesday, January 9, 1996, from 9:00 am to 5:00 pm.

ADDRESSES: The hearings will take place at the Marriott Hotel, 1999 Jefferson Davis Highway, in Arlington, VA (accessed from the Crystal City Metro stop). Comments should be submitted (in duplicate if possible) to: Central Docket Section, Environmental Protection Agency, Attn: Air Docket No. A–92–50, Washington, DC 20460. Docket A–92–50 contains the rulemaking record. The docket is available for public inspection between the hours of 8:00 am and 5:30 pm, Monday through Friday, in room M1500 of Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying. The fax number is (202) 260–4400.

FOR FURTHER INFORMATION CONTACT: Eleanor Thornton, Program Analyst, Center for Federal Guidance and Air Standards, Radiation Protection Division, Office of Radiation and Indoor Air (6602J), Environmental Protection Agency, Washington, DC 20460, (202) 233–9773.

SUPPLEMENTARY INFORMATION: This meeting is open to any member of the public. As noted in the notice reopening the comment period (60 FR 50161, No.188, September 28, 1995), requests to participate in the public hearing should be made in writing to the Director, Lawrence G. Weinstock, Radiation Protection Division, Office of Radiation and Indoor Air (6602J), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, by January 3, 1996. Requests may also be faxed to EPA at (202) 233–9629 or 233–9626. Requests to participate in the public hearing should also include an outline of the topics to be addressed, the amount of time requested, and the names of the participants. EPA may also allow testimony to be given at the hearing without prior notice, subject to time restraints and at the discretion of the hearing officer. Three (3) copies of testimony should be submitted at the time of appearance at the hearings.

Dated: November 22, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–29361 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–P